

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 19478 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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BOROLE BHUSAN DINKAR - Petitioner(s)

Versus

DIRECTOR OF PRIMARY EDUCATION & 2 - Respondent(s)

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Appearance :

MR UTPAL M PANCHAL for Petitioner(s) : 1,
MS ML SHAH, AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 15/09/2006

ORAL JUDGMENT

1. Rule. Learned AGP Ms. M.L.Shah waives service of
notice of rule on behalf of the respondents.

2. The challenge of the petitioner in this petition

is to the Government policy by which the petitioner is not being considered for admission in PTC course in English medium.

3. Short facts leading to the present petition are as follows :

3.1 The petitioner passed his 12th standard examination from Gujarat Board in Marathi medium in the year 2001. The petitioner is desirous of seeking admission in PTC course in English medium. The petitioner is qualified to seek admission in PTC course in Marathi medium.

3.2 The case of the petitioner is that ordinarily admissions are granted to PTC course in the medium in which the student has pursued his schooling. However, the Government has for the current academic year provided in the rules governing admissions to PTC colleges that if seats remained vacant in English medium PTC colleges, due to non-availability of sufficient number of students from English Medium, in such

a case, at the option of the candidates passing the qualifying examination from Gujarati Medium, can be considered for admission, provided of-course, the candidates have passed subject of English in 10th and 12th standard examinations. It is this rule which offends the petitioner. The case of the petitioner is that such option cannot be made limited only to Gujarati medium students and students studying in other mediums such as Marathi, Urdu and Hindi mediums also should have a similar benefit. Unfortunately, the petitioner had approached this Court in two previous petitions in the previous academic years. His petitions however, came to be disposed of as either having become infructuous or on account of the petitioner in any case, not having sufficient merit marks to warrant admission. In the present petition however, the petitioner has contended that he has more marks than some of the Gujarati medium students who have been given admissions in PTC course in English medium.

4. Learned AGP Ms. M.L. Shah appearing for respondents submitted that the State Government is reconsidering the policy, however, considering the paucity of time, new formula that may be provided can be applied only for next academic year. She further submitted that admission process is other-wise over and considering the petitioner in isolation would amount to denying opportunity to other similarly situated students who may apply for admissions. She however, under instructions stated that even after accepting options of all qualified Gujarati medium students willing to seek admissions in PTC course in English medium, approximately 100 seats are still vacant in English medium in PTC course.

5. Considering this situation, this Court has considered the challenge of the petitioner on merits. I find that some suitable directions are required to be given to balance the equities.

6. At the outset, it can be seen that Clause-15 of

the Government policy providing for option to Gujarati medium students to seek admission in PTC course in English medium necessarily excludes the students from other mediums such as Marathi, Urdu and Hindi to seek such a benefit. There is no reason or justification for this discrimination. As long as the students studying in other mediums also fulfill other necessary conditions, there is no reason why they should be kept out of consideration for seeking admission in English medium in PTC course. It may be noted that option is given to Gujarati medium students subject to conditions that sufficient number of students from English medium are not available on account of which PTC course seats in English medium have remained vacant and that the concerned student has passed 10th and 12th standard examination of the Board with English as a subject. There is no reason why subject to these very conditions, students passing from other mediums also should not be granted a similar choice. On this count, I find that exclusion of students from other mediums

and confining this choice only to students from Gujarati medium, cannot be sustained, same would fail to pass the test of equality under Article 14 of the Constitution of India. It is accordingly declared that not only Gujarati medium students but the students passing from other medium also from Gujarat Board would get the benefit of applying for PTC course in English medium subject to fulfillment of all other conditions.

7. Considering the late stage at which the issue has come before this Court, however, for current academic year, certain suitable modifications shall have to be applied. Ordinarily, there would have been a question of considering the inter-se merits of students from different mediums. In the present year however, as noted earlier, even after exhausting of application of qualified Gujarati medium students, seats have remained vacant in English medium PTC colleges. Gujarati medium forming bulk of students passing in 12th standard examination, therefore, the

question of considering the inter-se merits of students passing from different mediums therefore, would not pose a serious problem at-least for the current academic year. For the future years, it will be open for the Government to provide for a policy to regulate the situation. For the current academic year however, all the students should be offered admissions as per their merit marks by preparing a common merit list of all willing candidates.

8. Learned AGP Ms. Shah is justified in contending that petitioner cannot in isolation get the benefit of this declaration and the changed policy should be applied to all such similarly situated students. For this purpose, it would be open for the respondents to issue fresh advertisement inviting all similarly situated students from other mediums also to apply for PTC course in English medium. The entire above exercise is only subject to fulfillment of minimum requirement of attendance. Therefore, before undertaking and carrying out the

directions given here-in-above, it will be open for the Government to examine whether considering the time available, it is still open to grant admissions to the willing students as provided here-in-above. It is expected that Government will take into consideration all aspects urgently since as many as 100 seats are still vacant and there will be larger number of students willing to secure admissions.

9. In the conclusion, following directions are issued :

1. The respondents shall firstly examine whether it is possible to complete fresh admission process as directed here-in-above without violating the requirement of minimum attendance.

2. If time on hand permits granting such admissions, respondents shall issue an advertisement in newspaper inviting all qualified students from mediums other than

Gujarati medium also, to apply for PTC course in English medium.

3. Admissions shall be granted on the basis of common merit list to be prepared on the basis of merit marks secured by each student.

4. For the future years, it would be open for the Government to provide for a suitable formula on the basis of internal merits to the students passing 12th standard examination from different mediums. It would also be worthwhile for the Government to consider whether it would be advisable to provide for at-least minimum passing marks in English subject in 10th standard and 12th standard examination for securing admission in English medium course though pursuing 12th standard in other mediums.

10. With these directions, the petition is disposed of. Rule made absolute accordingly with no order as to costs.

Direct service is permitted.

(Akil Kureshi, J.)

(raghu)